United Nations CAT/C/HRV/QPR/6

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
10 January 2017

Original: English
English, French and Spanish only

Committee against Torture

List of issues prior to submission of the sixth periodic report of Croatia*

Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. With reference to the Committee's previous concluding observations (para. 11),[1] please inform the Committee about:

(a) Whether any additional persons, including senior police officials, military personnel or political officials, suspected of complicity in or perpetration of war crimes or crimes against humanity have been convicted for war crimes perpetrated during "Operation Storm", the nature of the charges and the sentences handed down;

(b) The State party's sentencing policies for war crimes, and any specific measures to eliminate impunity for serious human rights violations and violations of international humanitarian law and expedite the prosecution of cases of war crimes and crimes against humanity;

(c) Any enhancements in regional cooperation in the prosecution of war-related crimes;

(d) The measures taken to abolish the policy and practice of granting amnesties to persons convicted of torture or ill-treatment, as outlined in the Committee's general comments No. 2 (2008) on the implementation of article 2 and No. 3 (2012) on the implementation of article 14, in which the Committee affirmed that amnesties for the crime of torture are incompatible with the obligations of States parties;

(e) Whether any reparation, compensation or rehabilitation has been provided to victims of war crimes, including to survivors of sexual violence committed during the time of war, in accordance with the Law on the Rights of Victims of Sexual Violence in War, or to the relatives of missing persons;

* Adopted by the Committee at its fifty-ninth session (7 November-7 December 2016).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

(f) Any consideration given by the State party regarding the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.

Article 2[2]

2. With reference to the Committee's previous concluding observations (see CAT/C/HRV/CO/4-5, para. 6), and in the light of the follow-up information provided by the State party,[3] please provide information on effective measures taken to guarantee to all persons deprived of their liberty all the fundamental legal safeguards from the very outset of their detention, in accordance with international standards, including:

(a) Whether persons summoned to police stations for "informative talks" have prompt access to an independent lawyer and, if necessary, to legal aid, including access to ex officio lawyers during any period of initial police questioning;

(b) Whether persons who avail themselves of the right not to give any statement or reply to questions during "informative talks" are still held in police premises for six hours starting from the moment of arrival;

(c) Whether, given that "lawyers and family members are contacted by the competent police officers", detained persons receive feedback on whether it has been possible to notify them;

(d) Whether persons deprived of their liberty, including those who do not have health insurance, can have prompt and unimpeded access to a doctor of their choice from the outset of their detention, without having to wait for the approval of a competent court;

(e) Whether any specific measures have been taken by the State party's judiciary and prosecution during the period under review to reduce detention on remand during pretrial proceedings in favour of less restrictive alternatives;

(f) Whether persons who are in pretrial detention continue to be detained with convicted prisoners;

(g) Whether the system for psychiatric evaluation has been reviewed to ensure that the forensic evaluation of detainees placed in psychiatric establishments is conducted as expeditiously as possible and that such persons are provided with fundamental safeguards against torture.

3. Please indicate whether measures have been taken to monitor the provision by all public officials of safeguards to persons deprived of their liberty and to ensure that any public official who denies fundamental legal safeguards to such persons is disciplined or prosecuted, including data on the number of such cases and the nature of the disciplinary measures.

4. With reference to the Committee's previous concluding observations (para. 16), please provide information on:

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[2] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in para. 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

[3] CAT/C/HRV/CO/4-5/Add.1 and Add.2.

(a) Whether domestic violence continues to be defined as a misdemeanour in some cases, despite its criminalization in the Criminal Code;

(b) Whether victims of domestic violence continue to be arrested and even charged along with the perpetrator under the Law on Protection against Domestic Violence;

(c) Whether police officers who respond to domestic violence calls and misdemeanour judges who handle domestic violence cases have received specific training in order to be able to respond adequately and to identify the predominant aggressor under the Law cited above;

(d) Whether steps have been taken to ensure that all allegations of violence are investigated promptly, thoroughly and effectively and that perpetrators are held accountable and brought to justice;

(e) Whether mechanisms have been put in place to encourage female victims of violence to come forward and whether the State party has taken steps to ensure that adequate shelters are available for female victims of domestic violence and whether they obtain adequate redress, including compensation and rehabilitation.

5. Please provide information on steps taken by the State party during the period under review to combat trafficking in persons, including at the regional level; identify victims of trafficking; and train its police officers, border control personnel, judges, lawyers and other relevant officials in order to raise awareness on the matter and of the rights of victims.

6. With reference to the Committee's previous concluding observations (para. 10) and in the light of the follow-up information provided by the State party, please provide updated information on:

(a) Further steps taken during the period under review to strengthen the independence of the monitoring of all places of deprivation of liberty;

(b) The human and financial resources provided to ensure the independent and effective operation of the Ombudsman, acting as the national preventive mechanism, including by ensuring the participation of representatives of the academic community and of a broad array of organizations and independent experts working in the field of human rights; and whether their recommendations are considered with respect to implementation.

Article 3

7. With reference to the Committee's previous concluding observations (para. 15) and in the light of the follow-up information provided by the State party, please provide information on:

(a) The status of the amendments to the Law on Foreigners that would include alternatives to the detention of asylum seekers and migrants;

(b) Whether asylum seekers with movement restrictions detained at the Ježevo detention centre continue to be held with illegal migrants, and their abilities to lodge complaints to the officers at the centre or the Ombudsman;

(c) Whether asylum seekers with movement restrictions and migrants detained at the Ježevo detention centre continue to be held for extended periods of time;

(d) The steps taken to ensure early identification, protection and rehabilitation of victims of torture and other persons with specific needs among asylum seekers, such as unaccompanied minors and victims of human trafficking, through appropriate national protection mechanisms;

(e) Whether psychological counselling, treatment and rehabilitation for asylum seekers has been provided in addition to the doctor who comes on a daily basis to provide basic and emergency medical care;

(f) Whether free legal aid is provided not only to asylum seekers with movement restrictions but also to all asylum seekers and migrants, and whether they enjoy all procedural guarantees, including the right of appeal against negative decisions;

(g) Whether facilities for the accommodation of asylum seekers are monitored regularly through the national preventive mechanism or other monitoring mechanisms;

(h) Extradition and expulsion proceedings and on the compliance of the State party with the non-refoulement obligation under article 3 of the Convention.

Articles 5 and 7-8

8. Please provide information on whether the State party has rejected, for any reason, requests for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

9. With reference to the Committee's previous concluding observations (para. 18), please provide information on:

(a) Steps taken to ensure that gender-specific training is provided to medical personnel dealing with detainees, in particular in pretrial detention facilities, on the identification of signs of torture and ill-treatment in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) The development and implementation of specific methodologies to assess the effectiveness and impact of training and educational programmes on cases of torture and ill-treatment.

Article 11

10. With reference to the Committee's previous concluding observations (para. 12), please provide updated information on:

(a) Measures taken to combat overcrowding in the State party's correctional institutions during the period under review, in particular at the Rijeka County Prison and in high-security wards such as the one in the Osijek County Prison, including through increased resort to alternative forms of punishment and with regard to building new facilities that meet international standards;

(b) Steps taken to improve the abilities of prisoners to leave their cells in order to work or engage in other extra-regime or outdoor activities, in particular at the Zagreb County Prison;

(c) Specific steps taken to improve material conditions in psychiatric institutions, in particular in the Psychogeriatric Ward of the Institute for Biological Psychiatry and Psychogeriatry for elderly patients with mobility issues, which reportedly may amount to degrading treatment;

(d) Specific steps taken to improve the reported deplorable material conditions in the detention facility for foreigners in Ježevo, to move detainees to the new building in Ježevo to ease overcrowding, and to abolish the practice of making migrant detainees subject to deportation pay for the costs of their accommodation and deportation;

(e) Whether health care in the prison system is under the supervision of the Ministry of Health, whether prison officials are present during medical examinations and whether emergency medical assistance is the only medical care available at police stations;

(f) Whether signs of violence observed when a prisoner is being screened medically on his or her arrival at a penitentiary establishment are recorded fully, together with the doctor's conclusions and any relevant statements made by the prisoner; and on whether the same procedure is followed whenever a prisoner is examined medically following a violent episode within the prison;

(g) Whether medical personnel in prisons are able to report, on a confidential basis, any signs of torture or ill-treatment to the public prosecutor.

11. With reference to the Committee's previous concluding observations (para. 13), please provide information on:

(a) Whether the State party has opened during the period under review additional prison facilities for women that are not located in a remote geographic location;

(b) Any steps taken to facilitate the maintenance of family relations, in particular regarding visits of families with small children;

(c) Whether a separate enclosed facility has been established for juvenile convicts during the period under review.

Articles 12 and 13

12. With reference to the Committee's previous concluding observations (para. 8), please provide detailed statistical data, disaggregated by crime committed, ethnicity, age and sex, on:

(a) The number of complaints alleging acts of torture and ill-treatment, including verbal abuse and excessive use of force, by law enforcement and other public officials as well as private individuals against, inter alia, lesbian, gay, bisexual and transsexual persons and persons belonging to ethnic minorities; the number of such complaints investigated; any prosecutions brought; and any resulting convictions and sentences;

(b) Cases in which officials were subjected to disciplinary measures for failure to investigate complaints of torture or ill-treatment adequately or for refusal to cooperate in investigating any such complaint.

13. Please provide information on:

(a) The acquittal of three men for a homophobic attack against six women in Split in 2012;

(b) How the State party has responded to cases of physical attacks, death threats and intimidation against journalists.

14. Please provide information on the steps taken by the State party to combat hate crimes and racist attacks against members of ethnic minorities, particularly Roma and Serbians, including investigations and prosecutions, and any compensation provided to victims.

15. With reference to the Committee's previous concluding observations (para. 9), please provide information on:

(a) Steps taken to establish an effective and fully independent complaints mechanism that will investigate and respond promptly to allegations of torture and ill-treatment by police officers, and the latest developments in the creation of a committee within the police administration to receive citizens' complaints in pursuance of amendments to the Police Act;

(b) Whether allegations of torture and ill-treatment by police officers continue to be referred for preliminary investigation to the Internal Control Department, which is part of the same structure that employs the alleged perpetrators of such acts;

(c) The number of disciplinary investigations regarding police officers and the number of police officers who have been prosecuted or sanctioned for ill-treatment of persons deprived of their liberty over the past two years.

16. Please provide updated information on:

(a) The 23 complaints lodged in 2015 under article 15 of the Execution of Prison Sentences Act that concern the Lepoglava and Glina State Prisons and the Zagreb County Prison, as well as their consideration and outcome;

(b) Independent investigations into and follow-up on complaints by persons alleging that they were beaten by judicial police, including by judges of execution, and any specific remedies provided for in the Police Act;

(c) Whether all penal institutions in the State party keep records of the complaints lodged by prisoners;

(d) Steps taken by the Ministry of the Interior to stop inflicting what may amount to degrading treatment on apprehended persons by posting video recordings of their arrest on the Ministry website;

(e) Whether physical restraints are used in all cases of arrest of elderly persons, in contravention of the Ordinance on the Conduct of Police Officers.

Article 14

17. With reference to the Committee's previous concluding observations (para. 14), please provide information on:

(a) Specific examples of cases in which victims of torture have received medical or psychosocial rehabilitation and the kind of rehabilitation programmes provided, and whether the victims were able to have access to free legal aid;

(b) With reference to paragraph 46 of general comment No. 3, please provide information on redress and compensation measures ordered by the courts since the consideration of the previous periodic report, including the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case.

Article 15

18. With reference to the Committee's previous concluding observations (para. 7), please indicate:

(a) Whether judges are mandated by law to initiate an investigation when provided with prima facie evidence of torture;

(b) Whether any reports were received during the period under review of evidence obtained through torture being used in criminal proceedings;

(c) Whether there were any cases during the period under review of confessions that were deemed inadmissible on the grounds that they had been obtained through torture;

(d) Whether any officials have been prosecuted and punished during the period under review for extracting such confessions.

Article 16

19. With reference to the Committee's previous concluding observations (para. 17), please provide specific information on:

(a) Whether the use of physical restraints has continued in psychiatric institutions during the period under review, including leather or canvas straps fastened with buckles or magnetic locks employed to attach patients to beds or the use of straightjackets;

(b) Whether the Act on the Protection of Persons with Mental Disorders provides for more efficient control mechanisms for the protection of the rights of persons with mental disorders, including new, more specific regulations concerning the use of restraints in psychiatric institutions, including as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to contain that risk satisfactorily, which are currently regulated by an ordinance and not by the Act;

(c) Whether the resort to restraints is always ordered expressly by a doctor or brought immediately to the attention of a doctor and applied with clear therapeutic purpose, including adherence to protocols and the filling in of forms documenting the use of the restraints, specifying the reasons for use, duration of use and the particular method of restraint used;

(d) Whether personnel in psychiatric establishments receive appropriate training to apply restraints;

(e) Whether the application of restraints is carried out a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to contain that risk satisfactorily and for the shortest possible time;

(f) Any steps taken to ensure that all complaints of violations concerning the use of restraints are promptly and independently investigated and that the persons responsible are held to account;

(g) Whether the use of seclusion in psychiatric establishments has continued during the period under review.

20. Please provide information on:

(a) Whether the new Act on the Protection of Persons with Mental Disorders distinguishes between and provides a clear and distinct legal definition of the involuntary hospitalization of persons with mental disorders or psychosocial disabilities, as opposed to involuntary medical treatment;

(b) Whether the Act regulates minimum conditions regarding premises, staffing and medical and technical equipment for institutions accommodating persons with mental disorders or psychosocial disabilities;

(c) Steps taken to ensure effective supervision and independent monitoring by judicial organs of any involuntary hospitalization in psychiatric institutions of persons with mental or psychosocial disabilities;

(d) Specific steps to ensure effective legal safeguards for persons in such institutions, including the right of effective appeal;

(e) Measures to ensure that every patient or their legal guardian, whether voluntarily or involuntarily hospitalized, is fully informed about the treatment to be prescribed and given the opportunity to refuse treatment or any other medical intervention;

(f) Steps taken to provide training to medical and non-medical staff on how to administer non-violent and non-coercive care, and those taken to establish clear and detailed regulations on the use of restraints and other coercive measures in psychiatric institutions;

(g) Steps taken to establish an independent complaints mechanism for persons with mental and psychosocial disabilities, to establish the right to counsel and to an effective and impartial investigation of complaints of violations of the Convention, to bring those responsible for such violations to justice and to provide redress to victims.

Other issues

21. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, and describe if and how those anti-terrorism measures have affected human rights safeguards in law and practice. Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please provide information on the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there have been any complaints of non-observance of international standards; and the outcome of those complaints.

General information on other measures and developments relating to the implementation of the Convention in the State party

22. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.